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PRC STATE COUNCIL BULLETIN,

No. 16, 30 July 1984

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PRC STATE COUNCIL BULLETIN, No. 16, 30 JUL 1984

Beijing PRC STATE COUNCIL BULLETIN in Chinese No. 16, 30 Jul 1984

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DECREE NO 15 OF PRESIDENT OF PEOPLE'S REPUBLIC OF CHINA

Beijing STATE COUNCIL BULLETIN in Chinese No 16, 30 Jul 84 p 547

[Text] The "Supplementary Provisions of the NPC Standing Committee on Time Limit for Criminal Cases" were adopted at the Sixth Session of the Standing Committee of the Sixth National People's Congress of the People's Republic of China held on 7 July 1984. They are now promulgated and shall be effective from the date of promulgation.

Li Xiannian
President of the People's Republic of China
7 July 1984

SUPPLEMENTARY PROVISIONS OF NPC STANDING COMMITTEE ON TIME LIMIT FOR CRIMINAL CASES

Beijing STATE COUNCIL BULLETIN in Chinese No 16, 30 Jul 84 pp 547-549

[Adopted at the Sixth Session of the Standing Committee of the Sixth National People's Congress]

[Text] The time limit for criminal cases fixed by the criminal procedural law in the spirit of shortening the time limit for criminal cases and protecting the personal rights of citizens is appropriate and correct. The public security and judicial organs shall continue to improve their work, improve the quality and efficiency of handling cases, and conscientiously carry out the time limit for cases according to the regulations of the criminal procedural law, and shall, seeking truth from facts, do the utmost to shorten the time limit for criminal cases. At the same time, in order to solve certain special and concrete problems in enforcement, the following supplementary provisions are specially stipulated:

1. In the event that important cases involving large gangs of criminals and complicated cases involving criminal gangs fleeing hither and thither cannot be settled within the investigation and detention time limit set under Item 1 of Article 92 of the Criminal Procedural Law or the time limit for the first trial fixed under Article 125 or the time limit fixed for the second trial under Article 142, the investigation and detention time limit, upon approval or decision of the people's procuratorate court of the province, autonomous region or directly subordinate municipality, may be extended for 2 months; and upon approval or decision of the higher people's court, the time limit for the first trial and that for the second trial may be extended for 1 month each.
2. If important and complicated criminal court cases in frontier regions with difficult communications facilities cannot be settled within the time limit for investigation and detention and the time limit for the first trial and the second trial, the time limit for the cases may be appropriately extended. The extension period and the procedure for trial and approval shall follow the provisions of Article 1.

3. During the investigation period, if it is found that the accused has committed other important crimes, supplementary investigation may be made upon approval or decision of the people's procuratorate and the time limit for investigation and detention shall be calculated anew.
4. If, in the course of investigation, prosecution, first trial and second trial, the case against the accused under detention cannot be settled within the time limit and if the procedure of allowing the accused to go on bail and await trial, but with his whereabouts being kept under watch, is not deemed harmful to society, the accused may go out on bail to await trial and his whereabouts be kept under close watch. The period of the accused being bailed out and his whereabouts being kept under watch shall not be counted into the time limit for settling the criminal cases as provided for under the criminal procedural law; nor shall the trial case be entirely interrupted.
5. In public prosecution cases whose proceedings are instituted by the people's procuratorate or handled by the people's court wherein the accused is not kept under detention, the time limit for criminal cases fixed under article 97, 125 and 142 of the criminal procedural law shall not apply but the trial of the court cases shall not be interrupted.
6. In the event of the people procuratorate and people's court changing the jurisdiction of a public prosecution case, calculation of the time limit for trial of the case shall start from the day the court papers have reached the organ responsible for handling the case following the change of jurisdiction.
7. In the event of a case being returned by the people's court to the procuratorate for supplementary investigation, the people's procuratorate shall complete the supplementary investigation within a month. Following completion of the supplementary investigation and the findings referred back to the people's court, the people's court shall calculate anew the time limit for the trial.
8. If a case is returned by the people's court at the second trial to the original people's court for retrial, the time for retrial may be counted by the original people's court beginning from the date of its receipt of the court papers for retrial.
9. In the event of an appraisal being made of the mental state of the accused, the time consumed for the appraisal shall not be counted within the time limit of the case concerned.
10. These provisions shall go into effect on the date of promulgation.

APPENDIX: Relevant Articles in the Criminal Procedural Law

Article 92. The detention period of an accused in the course of investigation shall not exceed 2 months. In the event of cases which cannot be settled within the time limit, the detention period may be extended by 1 month, subject to the approval of a higher level people's procuratorate.

Specially important and complicated cases which cannot be settled despite extension of the time limit as provided for under the preceding article shall be submitted by the supreme people's procuratorate to the Standing Committee of the NPC for approval to further extend the time limit for the trial.

Article 97. Regarding cases which may or may not require prosecution proceedings submitted by the public security organs to the people's procuratorate for action, the people's procuratorate shall render a verdict within a month but may defer rendering a verdict for half a month in the event of important and complicated cases.

Article 125. In the trial of public prosecution cases, the people's court shall render a verdict within a month's time, and, at the latest, not exceeding 1-1/2 months' time.

Article 142. In handling appeal or demurrer cases, the second trial people's court shall complete the trial within a month, and, at the latest, not exceeding 1-1/2 months' time.

PROVISIONAL REGULATIONS ON BONUS TAX IN STATE-RUN ENTERPRISES

Beijing STATE COUNCIL BULLETIN in Chinese No 16, 30 Jul 84 pp 550-552

[Promulgated by the State Council on 28 June 1984]

(Guo-fa [0948 4099] (1984) No 84)

[Text] Article 1. These provisional regulations are specially for the purpose of promoting the enforcement of the internal economic responsibility system of state-run enterprises, arousing the enthusiasm of the enterprises and their staff members for developing production and improving economic results, implementing the principle of "unlimited ceilings" for bonuses, and carrying out macroeconomic control over the excessive increase of consumption funds.

Article 2. The various kinds of bonus paid by state-run enterprises from the bonus funds (including the use of bonus funds for the payment of the various forms of salaries and wages, allowances, subsidies and awards in kind; same below) shall be subjected to payment of the state-run enterprise bonus tax (hereinafter called bonus tax), in accordance with these provisional regulations.

Article 3. The bonus tax is payable only by the enterprise; the individual staff member does not have to pay any bonus tax.

Article 4. Collection of the bonus tax is on an excess-quota progressive basis; the graduated rates shall be as follows:

On the total annual amount of bonuses paid not exceeding 2-1/2 months of the standard salaries and wages, tax free;

On the portion of the total annual amount of bonuses paid which exceeds 2-1/2 and up to 4 months of the standard salaries and wages, the tax rate is 30 percent;

On the portion of the total annual amount of bonuses paid which exceeds 4 and up to 6 months of the standard salaries and wages, the tax rate is 100 percent;

On the portion of the total annual amount of bonuses paid which exceeds 6 months of the standard salaries and wages, the tax rate is 300 percent.

Article 5. Standard salaries and wages shall be computed on the basis of taking the enterprise as a unit and in accordance with the state regulations governing the grades and standard of salaries and wages. Salaries and wages readjusted or fixed by the enterprise itself shall not be included in the computation.

In the event of the average monthly standard pay of the staff of an enterprise failing to reach 50 yuan each, 50 yuan shall still be taken as the basis for computation.

Article 6. The following categories of bonuses shall be exempted from paying the bonus tax:

1. Bonuses paid to excavation and extraction workers in mines, transportation workers and construction workers;
2. Bonuses paid in accordance with state regulations in recognition of creations and inventions, rational propositions, technical transformations, achievements in natural sciences;
3. Bonuses paid, following approved experimentations, on economy in the consumption of 10 specially designated fuels and raw materials (nonferrous metals, superior-quality steel products, gasoline, diesel oil, heavy oil, crude oil, coke, coal, electric power and timber);
4. Bonuses paid for the speedy dispatch of vessels abroad;
5. All other sundry bonuses approved by the State Council for exemption of the bonus tax.

Article 7. Payment of the bonus tax shall be made at the place where the persons(s) responsible for payment of the tax is located.

Article 8. The bonus tax shall be collected and administered by the tax collecting organs.

Article 9. The bonus tax shall be computed each year for payment.

Article 10. Persons responsible for payment of the bonus tax shall, within 35 days after the end of a year, submit to the tax collecting organs in the locality account statements and a report on the tax to be paid computed in accordance with the actual amount of bonuses paid. The tax-collecting organ, upon examining and checking the report, shall then send a tax demand note to the persons responsible for the tax payment, fixing a time limit for payment of the tax into the treasury.

Article 11. Tax collecting organs shall have the power to examine and inspect the conditions of the bonus payments of the persons responsible for payment of the bonus tax. The person(s) responsible for paying the tax shall report truthfully, provide for examination the account books, vouchers and credentials, salary and wage statements and relevant materials, and shall not conceal, or refuse to disclose, any information.

Article 12. In the event the person(s) responsible for the tax payment violate the provisions under Article 10 and does not truthfully submit the reports on time, the tax collecting organs, apart from fixing a time limit for the responsible person(s) to make the report, shall have the power, in accordance with the actual conditions, to levy a fine not exceeding 5,000 yuan. Failure to pay the tax within the time limit shall subject the taxpayer to payment of an overdue fine calculated on the basis of 0.5 percent of the overdue tax every day and commencing from the day it was overdue.

Article 13. In the event of tax evasion or refusal to pay the tax by the person(s) responsible for paying the tax, the tax collecting organs, apart from demanding the person(s) concerned to truthfully report the amount of the bonus payments and pay the tax within a time limit, shall have the power, in accordance with the actual conditions, to levy a fine not exceeding 100 percent of the tax amount to be paid. In the event of serious cases, the tax collecting organs may refer the cases to the judicial departments to be dealt with according to law.

Article 14. In the event of the person(s) responsible for paying the tax being in arrears with payment of the tax, fines and deferment charges, or failing to make payment even after repeated demands, the tax collecting organ shall send a written notice to the bank in which the taxpayer has an account and demand deduction and payment of the required amount. On receipt of the written notice from the tax collecting organ, the bank shall forthwith attend to the deduction and payment procedure.

Article 15. In the event of a dispute between the taxpayer and the tax collecting organ, the tax shall first be paid as demanded by the tax collecting organ, following which an appeal may be made to a higher tax organ for review. Upon receipt of the appeal, the higher tax organ shall render a verdict within 30 days.

Article 16. Payments made by the taxpayer on the bonus tax, fines and charges for delayed payment shall be made from, and entered into, the staff bonus funds of the enterprise and shall not be entered into the cost of production.

If the staff bonus funds set aside in a year by the taxpaying enterprise are not sufficient to pay the bonus tax, fines and/or charges for delayed payment for that year, payment of the said bonus tax, fines and/or charges for delayed payment shall be made from the staff bonus funds for the following year.

Article 17. The Ministry of Finance shall be responsible for interpretation of these provisional regulations.

Article 18. These provisional regulations shall go into effect commencing as of 1984.

STATE COUNCIL APPROVAL OF LIAONING PROVINCIAL PEOPLE'S GOVERNMENT REPORT
PROPOSING SETTING UP EXPERIMENTAL POINTS IN SHENYANG CITY FOR COMPREHENSIVE
REFORM OF ECONOMIC SYSTEM

Beijing STATE COUNCIL BULLETIN in Chinese No 16, 30 Jul 84 p 558

[State Council General Office approval of Liaoning Provincial People's
Government report proposing setting up experimental points in Shenyang City
for the comprehensive reform of the economic system (11 July 1984)]

(Guo-fa (1984) No 48)

[Text] Receipt is hereby acknowledged of your report proposing, and asking
for approval of, the "setting up of experimental points in Shenyang City for
the comprehensive reform of the economic system." The State Council approves
the setting up of experimental points in Shenyang City for the comprehensive
reform of the economic system and of enforcing the plan singly. It also
endows Shenyang City with provincial grade economic management authority.

Shenyang City is the largest city in the northeast region and is also an old
industrial base with the machinebuilding industry as the center in our coun-
try. Performing a good job of the reform of the economic system of Shenyang
City carries great significance in further vitalizing and developing the
economy of the northeast region, in looking for a road to carrying out reform
of the economic system of large cities and towns, and in fully displaying
the role of large cities and towns as economic centers.

The work of the reform of the economic system of Shenyang City, carried out
under the leadership of the Liaoning Provincial CPC Committee and the Liaoning
Provincial People's Government, should be given active aid and guidance by
the various relevant departments of the State Council. It is requested that
in conformity with the tasks and demands of reform of the economic system
mentioned in the "Report on Government Work" submitted by Premier Zhao
Ziyang to the Second Session of the Sixth NPC and in conjunction with the
actual conditions of Shenyang City, a concrete project for the reform be
speedily formulated and organized for enforcement. It is necessary that a
good job be done of the experimental points.

STATE COUNCIL CIRCULAR ON ABOLISHMENT OF SYSTEM OF ASSIGNMENT OF RESPONSIBILITY
WITH PROGRESSIVE PROFIT INCREASE IN ENTERPRISES

Beijing STATE COUNCIL BULLETIN in Chinese No 16, 30 Jul 84 p 558-559

[State Council General Office circular on the abolishment of the system of assignment of responsibility with progressive profit increase in enterprises (13 July 1984)]

(Guo-fa [0948 4099] (1984) No 50)

[Text] The State Council has decided that commencing 1 October this year the country will universally carry out the second step of the tax-in-lieu-of-profit reform. From now on, various localities and departments shall no longer approve the system of assignment of responsibility with progressive profit increase in enterprises and shall uniformly carry out the system of collecting tax in lieu of profit. As for enterprises which in the past have carried out the system of assignment of responsibility with progressive profit increase, they shall be subjected to the following regulations, with due consideration of the conditions of each case.

1. In the case of enterprises which have experimentally carried out the system of assignment of responsibility with progressive profit increase with the approval of the State Council, or the State Economic Commission, or the Ministry of Finance, those which have reached the expiry date of the experimental period shall change over to the system of paying tax in lieu of profit. Those which have not yet reached the expiry date may continue with enforcement of the original system, but, upon expiry, shall make the changeover.
2. Enterprises which have experimentally carried out the system of assignment of responsibility with progressive profit increase with the approval of the people's government of the province, or autonomous region, or directly subordinate municipality, shall check over its records once, and, if it is found that the expiry date has been reached, shall change over to the system of paying tax in lieu of profit. As for those which have not yet reached the expiry date, if a relatively good job has been done and the distribution relations between the state and the enterprise have been relatively rational, the changeover may be made on the expiry date but a supplementary report shall be made to the State Economic Commission and the Ministry of Finance for approval. In the event the distribution is not rational and there are no concurrent views on various sides, the changeover shall be made speedily.

3. In the case of the people's governments of districts, cities and counties having of their own accord sanctioned the enforcement of the system of assignment of responsibility with progressive profit increase, the changeover shall be definitely made and the system of paying tax in lieu of profit shall be carried out.

4. All enterprises which have been sanctioned to continue with the system of assignment of responsibility with progressive profit increase shall, commencing with the fourth quarter of this year, follow the new tax regulations and pay the products tax, value-added tax, business tax and tax on resources.

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